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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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OFFICE OF RESEARCH

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House Week in Review

Among bills receiving approval this past week were H. 3154, a bill increasing the minimum penalties for attempting to rob operators of taxi vehicles; S. 32, a bill to create a civil action against shoplifters, and S. 1021, a bill requiring inmates, if financially able, to reimburse prisons for any health care costs incurred. Also approved was H. 4810, a bill requiring public service commissioners to be elected from congressional districts as established based on the 1990 Census. An amendment to this bill to require popular election of these commissioners was tabled. Currently the General Assembly elects the members of the commission.

On Wednesday, objections were placed to H. 4904, a proposed constitutional amendment to delete a requirement that a voter is entitled to vote only in his precinct of residence, and to H. 4905, a bill to implement in South Carolina provisions of the National Voter Registration Act of 1993. These bills now are on the House contested calendar. Also on Wednesday, H. 4955, a joint resolution to loan a maximum of \$600,000 to the City of Charleston to be used to aid that city's Spoleto Festival, was enrolled for ratification.

Also this past week, by special order, the House considered S. 1196, a bill to establish redevelopment authorities for purposes of acquiring and disposing of federal military bases, coming in the wake of pending closings of various military facilities in the Charleston area and possible additional closings in the future. Following addition of a few amendments to the bill, the House adopted S. 1196 by voice vote.

On Wednesday, the General Assembly convened in joint session to hear an address by the Honorable David Harwell, Chief Justice of the South Carolina Supreme Court, on the status of South Carolina's judiciary. In his address, the chief justice urged the General Assembly to work on long-term comprehensive solutions to crime and public safety matters, instead of looking at short-term, piecemeal "quick fixes." He also pointed to recent improvements in the state's judicial system, mentioning new training requirements for magistrates and increased use of arbitration and mediation, helping to ease crowded court dockets. Chief Justice Harwell also urged an expansion of the criminal and civil jurisdiction of magistrates, along with increased funding for further court automation, rotation of judges another three judge panel for the Court of Appeals. This was Chief Justice Harwell's last "state of the judiciary" address to the General Assembly, as he will be retiring from the court this summer, to be replaced by Chief Justice-Elect Lee Chandler.

Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced in the House are featured here. The bill summaries are arranged according to the committee to which the legislation was referred.

Judiciary

Qualified Domestic Relations Orders (H. 5142, Rep. Sheheen). This bill lists procedures which the state's various retirement systems must follow when acting on judicial orders providing for alimony or marital property rights which affect benefits paid by these systems. Under these provisions, a "qualified domestic relations order" (i.e., domestic relations order creating or recognizing a spouse/former spouse's right, or assigning such right, to receiving benefits payable to a member or retired member under the state's retirement system) may order all or part of a retirement benefit, withdrawal or refund of contributions, disability benefit or death benefit becoming payable under the retirement system on the account of the member or retired member instead be paid to the member's spouse or former spouse. The bill lists conditions under which a domestic relations order is a "qualified domestic relations order" and conditions under which the retirement system may reject a domestic relations order as a "qualified domestic relations order." The administrator of the retirement system, or his designee, has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order, and appeals from the administrator's decisions in this area must be taken to the Administrative Law Judge Division.

Names of Candidates to be Placed in Alphabetical Order on Ballot (S. 965, Sen. Rose). This bill requires names of candidates for offices (e.g., state and federal offices, county offices, etc.) appearing on party primary ballots to be listed in alphabetical order and also requires alphabetical placement of candidates in non-partisan and at-large multi-seat races appearing on general or special election ballots.

Paternity Acknowledgments (S. 1204, Sen. Short). This bill requires the Department of Health and Environmental Control and the Department of Social Services, in conjunction with the South Carolina Hospital Association, to develop and implement a program to promote obtainment of voluntary acknowledgments of paternity before a newborn is released from

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the hospital. The bill also provides that a verified voluntary acknowledgment of paternity is admissible at a paternity hearing and that introduction of that evidence creates a rebuttable presumption of the putative father's paternity.

Constitutional Amendment Deleting Provisions Pertaining to Voting only in Precinct of Residence (S. 1346, Senate Judiciary Committee). This is the companion measure to H. 4904 (currently on the House contested calendar), both of which are proposed constitutional amendments which would delete the current requirement that a citizen of America and of South Carolina can only vote in his precinct of residence and that a registered voter who has moved within the state in the 30 days prior to an election is entitled to vote in his previous precinct of residence for that election.

Implementation of Federal "Motor Voter" Law (S. 1351, Senate Judiciary Committee). Last year, Congress passed, and President Clinton signed, the National Voter Registration Act of 1993 (sometimes better known as the "Motor-Voter" law), an act designed to expand the number of places for voter registration activities, with the hope that by facilitating voter registration, more persons will vote. The purpose of S. 1351 is to comply with the provisions of this new federal law.

S. 1351 was introduced as a companion bill to H. 4905, which currently is pending on the House Statewide Contested Calendar. The Senate bill was amended in that chamber before being sent to the House but still is virtually identical to the House version. Both S. 1351 and H. 4905 designate the following agencies as places where voter registration activities are to be conducted: (1) Dept. of Social Services; (2) Dept. of Health and Environmental Control---WIC (Women, Children and Infants) Program; (3) Dept. of Alcohol and Other Drug Abuse; (4) Dept. of Disabilities and Special Needs; (5) Dept. of Mental Health; (6) Commission for the Blind; (7) Dept. of Vocational Rehabilitation; (8) Wil Lou Gray Opportunity School; (9) South Carolina Protection and Advocacy System for the Handicapped; and (10) Armed Forces recruiting offices. H. 4905 also requires voter registration activities to be conducted by municipal clerks, although S. 1351 does not include this provision. Both bills require the distribution of registration forms at these agencies, with the completed forms to be accepted for transmittal to the county board of voter registration. If any of these voter registration agencies provided services to a person with disabilities at the person's home, then the agency must provide these voter registration services at the person's home. No person providing voter registration services at these agencies may seek to influence an applicant's political preference; display a political preference or party allegiance, or lead the applicant to believe that a decision to register to vote has any bearing on the availability of services or benefits. A voter registration agency which is an office that provides services or assistance in addition to conducting voter registration would provide to persons seeking these services a voter application form. Information pertaining to a person's refusal to register

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to vote at an agency providing services may not be used for any other purpose other than voter registration.

Also under both bills, each driver's license application, including renewal applications, submitted to the Division of Motor Vehicles (DMV) serves as an application for voter registration, unless the applicant fails to sign the voter registration form. Failure to sign the voter registration portion of the driver's license application serves as refusal to register. A voter registration application submitted to DMV is considered to update any previous voter registration by the applicant, and information relating to the failure of the applicant for a driver's license to sign the voter registration application may be used only for voter registration purposes.

Both bills list conditions under which the State Election Commission may remove the name of a registered voter from the official list of eligible voters; require the Commission to inform applicants for voter registration of voter eligibility requirements and penalties provided by law for submission of false voter registration applications. The Commission also, at least 90 days before a state primary or general election, must complete a program to systematically remove the names of ineligible voters from the official lists of eligible voters and must also furnish voter registration applications to these agencies. Both bills also require the executive director of the State Election Commission, among other things, to serve as the chief state election official responsible for implementing the coordinating the state's responsibilities under the Federal Motor Voter Act and to maintain a master file, instead of a roster, of all registered voters by county and precinct.

Unlike H. 4509, S. 1351 contains a provision allowing a candidate to protest an election outcome when the protest, whether in whole or part, is based on evidence discovered after the election, evidence which may include but is not limited to after-discovered evidence of voters who have voted in a precinct or for a district office other than the one in which they are entitled by law to vote.

Labor, Commerce and Industry

Auto Insurance Coverage (S. 245, Sen. Macaulay). This bill makes it optional, instead of mandatory, for insurers to provide collision coverage and either comprehensive or fire, theft and combined additional coverage for automobiles and requires insurers writing single interest collision coverage to provide an applicant for that insurance a notice to be signed by the applicant. The notice must state that the coverage being purchased is only single interest collision coverage. The bill also prohibits premium rates for auto insurance from being based on a person's race, color, creed, national origin, ancestry, location of residence, occupation or economic status.

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Sprinkler Systems (S. 732, Sen. Holland). This bill revises provisions pertaining to fire protection sprinkler systems. The bill requires a person seeking a sprinkler contractor's license to have proof that he has in his employ a certificate holder who is a full-time employee in a responsible management position, as opposed to having in his employ a certificate holder who is a full-time owner, partner or officer. Additionally, the bill updates codes and standards for design and installation of these systems, requires a fire sprinkler system specification sheet to be completed for every such system. Shop drawings must be prepared for every fire protection sprinkler system installed in South Carolina, with the bill listing requirements for these drawings and the authorities to which they must be submitted. The bill also prohibits a certificate of occupancy from being issued until a certificate of compliance, certifying that the fire protection sprinkler system has been designed and installed in accordance with the sheet, has been delivered to the building owner, the authority having jurisdiction and the State Fire Marshal's office.

Auto Liability and Collision Insurance Rates Subject to Credit if Driver Has Passed Approved Driver Training Course (S. 927, Sen. Giese). This bill provides that automobile liability and collision insurance rates are subject to a credit once the applicant has successfully completed an approved driver training course. The amount of this credit may be determined by each insurer, based on factually or statistically-supported data, and is subject to prior approval of the chief insurance commissioner. The credit must be provided to the operator for 36 months from the date the approved driver training course was completed, and the insurer may make continued provision of the credit contingent on the insured not being involved in an accident for which he is at fault during the three-year period following course completion.

The bill defines an "approved driver training course" as one approved by the Department of Public Safety and which was conducted by a recognized college or university; instructors certified by the Department of Public Safety; or any other school approved and supervised by that Department. At a minimum, the course must include eight hours of classroom instruction; group discussion, lecture and visual appearances; age-related physical changes affecting older drivers, accident prevention measures and basic review of rules of the road; and a relevant test of the course material. Only the vehicle driven by drivers who have successfully completed the driver training course qualifies for this credit. Other vehicles which may be operated by other family members who have not completed the course do not qualify for the credit unless the primary driver of the additional vehicle has successfully completed the course.

Only driver training courses taken on a voluntary basis qualify for this credit; in other words, courses taken as a requirement of a driving offense do not qualify for the credit. Furthermore, this credit does not apply to persons eligible for the youthful operator approved driver training course.

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Creation of Committee to Study State's Consumer Finance Laws (S. 1328, Sen. Short). This joint resolution creates a committee to study South Carolina's consumer finance laws, as these laws relate to restricted loans, supervised loans and sales finance contracts. In examining laws pertaining to those loans and contracts, the committee must make findings as to whether an appropriate maximum finance charge must be set; to what extent other charges, refinancing and consolidation, and credit insurance must continue to be authorized, and any other findings the committee deems necessary.

This committee would consist of eight members, of whom three would be members of the House (appointed by the Speaker), three would be senators (appointed by the Senate President Pro Tempore), one would be the State Consumer Advocate (or his designee) and one would be the Director of the Consumer Finance Division of the State Board of Financial Institutions (or his designee). The committee is to use the existing staff of the Senate Banking and Insurance Committee, or the Senate Judiciary Committee, or both committees, and the committee must make a report with recommendations to the General Assembly by January 24, 1995.

Medical, Military, Public and Municipal Affairs

Conditions for Granting Furloughs to Persons Convicted of Violent Crimes (S. 1262, Sen. Giese). This bill prohibits the director of the Department of Corrections from granting furlough benefits to a person convicted of a violent crime unless (1) the victim of the crime for which the offender is charged, or the victim's relatives (if the victim has died); (2) the law enforcement agency which employed the arresting officer of the offender and (3) the solicitor in whose circuit the offender was convicted all recommend in writing that the offender be allowed to participate in the furlough program in the community where the offense was committed.

Revisions to Home Detention Act (S. 1336, Senate Corrections and Penology Committee). This bill allows local governments to establish by ordinance home detention programs (whether electronic or nonelectronic), so that an alternative to incarceration may be provided to persons awaiting trial and for offenders whose sentences do not place them in the custody of the Department of Corrections. Counties and municipalities may develop home detention programs according to minimum standards for local detention facilities in South Carolina as listed under the state's jail and prison inspection program. The bill also changes provisions pertaining to eligibility for home detention for persons violating the state's controlled substances laws. Currently, a person is not eligible for home detention if he violates the state's controlled substance laws; under these provisions, however, a person violating the state's controlled substances laws, or a person awaiting trial for such violations, is ineligible for home detention only if those offenses are felonies which carry a maximum sentence of 20 years or more or are classified as an

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exempt offense (exempt from the state's crime classification act) and provide for a maximum imprisonment of 20 years or more. Additionally, a participant in home detention must use an approved electronic monitoring device only if so instructed by the Department.

Ways and Means

Distribution and Use of C Funds (S. 961, Sen. Bryan). This bill revises several provisions pertaining to distributions and use of C funds. The bill allows a county transportation committee to expend from allocated C funds not more than \$1,000 for reasonable administrative expenses directly related to the committee's activities. These expenses may include copying, mailings, public notices, correspondence and recordkeeping costs but do not include payment of per diem or salaries for committee members. The bill requires that at least 25 percent of a county's apportionment of "C" funds must be expended on the state highway system for construction, improvements and maintenance, while the county transportation committee may expend up to 75 percent of "C" construction funds for activities such as local paving or improving county roads, for street and traffic signs and for other paving projects. Roads funded with these C funds which are constructed of rock must consist of between 1 and 2.5 inches of rock or its equivalent. Funds allocated to a county may be used to pay engineering, contracting and project supervision costs for projects built with these funds.

Campus Incentive Funds from 1993-1994 General Appropriations Act Must Be Used To Provide Bonuses to School Employees Classified as Evaluators (S. 979, Sen. Bryan). In the 1993-1994 general appropriation act, \$11.5 million of Campus Incentive Funds were distributed as a one-time bonus to classroom teachers. This bill requires that these funds also be used to provide a bonus of the same amount to school employees classified as evaluators. This bonus, however, may not be paid to a school evaluator who receives a bonus as a state employee, and bonuses for federally-funded school evaluators must be paid from federal funds.

Environmental Scholars Fund (S. 1147, Sen. V. Smith). This bill creates the Environmental Scholars Endowment Fund, to be used to establish environmental scholars endowments at "qualifying institutions (i.e., state institutions of higher learning which offer masters' or doctoral degree programs in environmental sciences or studies), so that scholarships or fellowships may be awarded to students pursuing degrees in those fields.

This Fund would be separate and distinct from the state's general fund and would be financed through the collection and deposit of fines and penalty assessments levied by the Department of Health and Environmental Control pursuant to the State Safe Drinking Water Act, the South Carolina Waste Management Act, low-level radioactive waste fines and the South Carolina Pollution Control Act (though portions of the Pollution Control Act fines distributed to counties must not be placed in this Fund). When

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the Fund reaches \$400,000, all subsequent fines and penalties must be deposited in the general fund, and each qualifying institution then may request the transfer of \$100,000 to be used by the institution as the corpus of a perpetual endowment fund known as the "Environmental Scholars Endowment." Only the endowment's annual interest income may be expended for scholarships or fellowships for students pursuing masters or doctoral degrees in environmental sciences or studies. Each qualifying institution establishing this Fund must raise \$100,000 in private match funds before July 1, 1999; otherwise the corpus of the endowment is returned to the Fund.

Each qualifying institution must establish the criteria, selection process and amount or awards for scholarships or fellowships from this Endowment, although each recipient of this scholarship or fellowship must be currently enrolled or accepted for enrollment in a master's or doctoral degree program in environmental sciences or studies and must complete a year-long internship in this state arranged by or with the approval of the institution prior to award of their degree. Also, each institution must establish application procedures that ensure equitable minority participation in the selection process.

- The bill allows the State Board for Comprehensive and Technical Education to request transfer of \$100,000 from the Fund to the board, once the Fund reaches \$400,000, with the funds to be used by the Board to create an Endowment to award these environmental scholarships to students enrolled or accepted for enrollment in technical education degree programs. In administering these funds, the Board is not required to raise private matching funds, but is required, along with qualifying institutions, to prepare an independent accounting of all funds in the Endowment.

Any funds remaining in or which have reverted back to the Fund as of July 1, 1999 must be distributed among the board (if it has established an endowment) and each qualifying institution which has established an endowment and raised the required matching funds, with these funds used only to increase the endowment's corpus. Upon final disbursement of these funds, the Fund is dissolved.

Index of Taxpaying Ability of a School District (S. 1219, Sen. Setzler). This bill provides that assessments used to determine a school district's index of taxpaying ability, for purposes of the State's Education Finance Act, are the audited assessments by school district contained in the annual report submitted yearly to the comptroller general's office. The bill requires the county auditor to provide year-end audited assessments of real and personal property to the Property Division of the Department of Revenue and Taxation for each of the county's school districts for the second completed taxable year preceding the fiscal year in which the index is used not later than October 1 each year. Additionally, sales ratio data used to calculate the index must conform with the base year assessments used to compute the current index, with the

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"base year" being the second completed taxable year preceding the fiscal year in which the index is used. The bill also requires the Department of Revenue and Taxation to provide a preliminary index by November 1 of each year end and a final index by February 1 of each year to the State Department of Education and the auditor of each county, with changes and corrections to the index prohibited after February 1, as currently opposed to March 1.

Without Reference

Duties Imposed on Solicitor in Cases Where Vulnerable Adults Are Taken into Custody Transferred to Department of Social Services (S. 1287, Sen. Richter). Current law imposes several duties on a circuit solicitor of a county where an officer takes a vulnerable adult in a life-threatening situation into protective custody, namely, requiring the solicitor to be informed by that law enforcement officer of the vulnerable adult being taken into that custody and requiring the solicitor to file a petition for protective custody. This bill would transfer these duties currently imposed on the solicitor to that county's Department of Social Services.

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